

## UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

TIMOTHY DUFOUR, *et al.*,

No. C 09-03770 LB

Plaintiffs,

**ORDER RE JOINT DISCOVERY  
LETTER**

v.

BE LLC, *et al.*,

[ECF No. 142]

Defendant.  
\_\_\_\_\_ /

On September 21, 2010, the district court referred all discovery in the above-captioned matter to the undersigned. Referral Order, ECF No. 116 at 1.<sup>1</sup> On July 8, 2011, the parties filed a joint discovery letter in which Plaintiffs Timothy DuFour, Jeanne DuFour, and Kenneth Tanner (collectively, "Plaintiffs") and Defendant Monterey Financial Services, Inc. ("Monterey") dispute the adequacy of Monterey's responses to three requests for the production of documents and one interrogatory. Joint Discovery Letter, ECF No. 142. The court conducted a telephone conference with the parties on July 20, 2011 and issues the following order.

The parties agreed that Monterey would produce the documents requested by Plaintiffs' Request No. 7. Monterey stated that it could produce the documents within two weeks. The court **ORDERS** Monterey to provide the documents within two weeks of the date of this order.

At this stage in the litigation, when Plaintiffs have been unwilling to commit to filing a motion

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<sup>1</sup> Citations are to the Electronic Case File ("ECF") with pin cites to the electronic page number at the top of the document, not the pages at the bottom.

1 for class certification, the court finds that the burdens outweigh the benefits with regard to requiring  
2 Monterey to provide additional information in response to Plaintiffs' Interrogatory No. 4.  
3 Accordingly, the court **DENIES** Plaintiffs' request to compel a further response to Interrogatory No.  
4 4

5 With regard to Plaintiffs' Request No. 8 and Request No. 9, the information provided by the  
6 parties in the letter and the telephone conference was not sufficient for the court to determine their  
7 reasonableness. The court views the information covered by Plaintiffs' earlier compromise position  
8 as relevant and likely to be maintained in an electronic format that can be produced relatively  
9 inexpensively. At the same time, Monterey's lawyer did not have sufficient information at the  
10 hearing about how the client actually maintains the information or how difficult or costly it might be  
11 to produce it. Therefore, the court **ORDERS** the parties to meet and confer again within two weeks.  
12 The parties should include a representative from Monterey who is knowledgeable about Monterey's  
13 databases and record-keeping practices. The parties also should involve any other individuals with  
14 sufficient technical knowledge and experience to understand and communicate about the technical  
15 issues and facilitate the orderly production of discovery. If the meet-and-confer process does not  
16 resolve the parties' dispute, they shall contact courtroom deputy Lashanda Scott at 510-637-3525 to  
17 schedule a further telephone conference. The parties shall file a joint letter of no more than three  
18 pages by noon the day before the telephone conference with an update.

19 The court **DENIES** without prejudice Plaintiffs' request for a continuance because that issue  
20 must be directed to the district court, which controls its docket and the case management deadlines.

21 This disposes of ECF No. 142.

22 **IT IS SO ORDERED.**

23 Dated: July 20, 2011



24 LAUREL BEELER  
25 United States Magistrate Judge  
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